

## Opinion No. 52-5572

August 8, 1952

**BY:** JOE L. MARTINEZ, Attorney General

**TO:** Mr. Filiberto Maestas President, Board of Regents Northern New Mexico Normal School El Rito, New Mexico

{\*280} I am writing in reply to your letter of July 21, 1952, with reference to the issue of funds, in which you request an opinion as to whether or not you can pledge the income of the permanent funds of the Northern New Mexico Normal School for the payment of interest and principal of the said Bonds as they mature. In other words you request an opinion as to whether or not you can pledge the income from permanent school funds including the Cutting bequest which has become a public school permanent fund according to the decree in Case No. 16084 filed in Santa Fe County District Court.

I have again examined closely the decree in Case No. 16084 dated January 22, 1936, which makes the Cutting bequest a permanent school fund, but there is nothing in the decree that says that the income can not be pledged.

As to other funds that you have, I understand that they are all school funds or money that you have saved from the income from other state lands. By virtue of Chapter 121 of the New Mexico 1949 Session Laws, the governing Board of your Institution can pledge the income from the Cutting fund and any other income from other school funds that you have, to pay for the Bond Issue which you expect to float to build an auditorium and another building. The pertinent parts of Chapter 121 of the 1949 New Mexico Session Laws, Sections 8 and 9 read as follows:

"Section 8. That for the faithful and prompt payment of all interest and principal of said bonds as and when the same shall mature according to the tenor thereof, the issue thereof shall constitute an irrevocable pledge by said board of so much of each year's income from the permanent funds of such state institution, so issuing bonds hereunder, in the hands of the treasurer as shall be needed to provide the 'Interest and Retirement Fund' herein mentioned, for the ensuing {\*281} year, and at all times fully and faithfully to keep the same in not less than the amount necessary to pay the interest and principal maturing as aforesaid; and in addition thereto the issue of said bonds shall constitute an irrevocable pledge by said board of as much of each year's income from the income and current fund derived from the lease of such of said institution's lands as remain unsold, as may be necessary to fully protect the 'Interest and Retirement Fund' for the ensuing year, and keep the same at all times in proper amount as herein provided."

"Section 9. That from and after the passage and approval of this act, all permanent funds thereafter derived from the sale or disposition of the lands held in trust for any of said institutions shall be invested in bonds of the United States or of the State of New Mexico, the income from which shall likewise form a part of the pledge income for the

payment of the principal and interest on bonds issued by the board of any such institution under the provisions of this act."

It is therefore, my opinion, that you can invest the income from the Cutting bequest to pay for the Bond Issue which you intend to float in the sum of \$ 100,000 or \$ 200,000. For the payment of the Bond Issue you may also invest other income that you have accumulated or are to receive from other permanent school funds, not otherwise pledged, it being understood that you can pledge only the income of these permanent school funds and not the principal.

Trusting that this fully answers your inquiry, I remain